

1 XINGFEI LUO
2 PO BOX 4886,
3 El Monte, CA 91734

4

5 Petitioner in Pro Se

6

7

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10

11 XINGFEI LUO, No. 8:22-CV-01640-MEMF-KES

12 Petitioner,

13 v.

14 THE PEOPLE OF THE STATE OF
15 CALIFORNIA

16 Respondent.

REQUEST FOR JUDICIAL NOTICE

Action filed: September 6, 2022

17

18 Xingfei Luo (Petitioner) respectfully presents this Request for Judicial Notice
19 (RJN) under the authority in Federal Rule of Evidence Rule 201, which states:

20 (a) Scope. This rule governs judicial notice of an adjudicative fact only, not a
21 legislative fact.

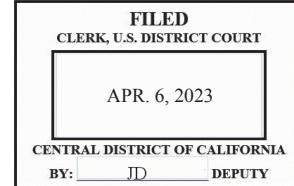
22 (b) Kinds of Facts That May Be Judicially Noticed. The court may judicially notice
23 a fact that is not subject to reasonable dispute because it:

24 (1) is generally known within the trial court's territorial jurisdiction; or

25 (2) can be accurately and readily determined from sources whose accuracy
26 cannot reasonably be questioned.

27 (c) Taking Notice. The court:

28



1 (1) may take judicial notice on its own; or

2 (2) must take judicial notice if a party requests it and the court is supplied
3 with the necessary information.

4 Further, per *Reyn's Pasta Bella, LLC v. Visa USA, Inc.* (9th Cir. 2006) 442 F.3d
5 741, 746 fn.6, this court "may take judicial notice of court filings and other matters of
6 public record." See *Burbank, Glendale-Pasadena Airport Auth. v. City of Burbank*, (9th
7 Cir. 1998)136 F. 3d 1360, 1364.

8 Petitioner hereby requests that this Court take judicial notice of the following
9 documents under Federal Rules of Evidence Rule 201:

10 1. Amended Complaint, dated on February 24, 2023, filed in Orange County
11 Superior Court in Case No. 23CM00067, and is attached hereto as Exhibit 1. In the
12 Amended Complaint, based on the theory of ongoing failure to remove references and
13 photos of Tomas Czodor, Petitioner was charged for the exact same conduct as she was
14 charged in Case No. 19CM06724. See Count 2 on ECF 3, p. 79.

15 2. Motion to dismiss, filed on March 14, 2023 in Orange County Superior
16 Court in Case No. 23CM00067, and is attached hereto as Exhibit 2. A continuing offense
17 is not terminated by a single act or circumstance, but instead endures for as long as the
18 proscribed conduct continues. *Wright v. Superior Court* (1997) 15 Cal.4th 521, 525.
19 "[O]rdinarily, a continuing offense is marked by a continuing duty in the defendant to do
20 an act which he fails to do. The offense continues as long as the duty persists, and there is
21 a failure to perform that duty. [Citations.] Thus, when the law imposes an affirmative
22 obligation to act, the violation is complete at the first instance the elements are met. It is
23 nevertheless not completed as long as the obligation remains unfulfilled. 'The crime
24 achieves no finality until such time.' " *Wright v. Superior Court* (1997) 15 Cal.4th 521,
25 525-526. A defendant violates a continuing offense **only once, even if the proscribed**
26 **conduct extends over an indefinite period.** *People v. Mason* (2014) 232 Cal.App.4th
27 355, 364-365. In *Mason*, the appellate court overturned three of the defendant's four
28 convictions for possessing the same firearm on four different dates, months apart. *Mason*,

1 supra, 232 Cal.App.4th at pp. 366-367. A continuing offense constitutes a single violation
2 and may not be arbitrarily divided into separate time intervals and charged as multiple
3 violations. *People v. Keehley* (1987) 193 Cal.App.3d 1381, 1385 (Keehley); *People v.*
4 *Gregori* (1983) 144 Cal.App.3d 353, 357. Determining whether a crime is a continuing
5 offense is primarily a question of statutory interpretation. (*Wright*, supra, 15 Cal.4th at p.
6 526.) It also is important to consider whether the nature of the crime is such that the
7 Legislature "must assuredly have intended that it be treated as a continuing one!" (Ibid.)
8 Doubts should be resolved against a construction "subjecting an offender to multiple
9 convictions by reason of a single unified pattern of behavior even though the behavior
10 continues over a period of time." (*Keehley*, supra, 193 Cal.App.3d at p. 1385.) Section
11 654, subdivision (a), provides that an act or omission that is punishable in different ways
12 by different provisions of law may be punished under either of such provisions, but in no
13 case shall the act or omission be punished under more than one provision. An acquittal or
14 conviction and sentence under any one bars a prosecution for the same act or omission
15 under any other. Section 654 therefore "precludes multiple punishment for a single act or
16 for a course of conduct comprising indivisible acts. 'Whether a course of criminal conduct
17 is divisible . . . depends on the intent and objective of the actor.' [Citations.] '[I]f all the
18 offenses were merely incidental to, or were the means of accomplishing or facilitating one
19 objective, defendant may be found to have harbored a single intent and therefore may be
20 punished only once.' [Citation.]" [Citation.] [Citations.] In *People v. Lewis* 77 Cal.App.3d
21 455 (Cal. Ct. App. 1978), one continuous criminal act committed by defendant between
22 1971 and 1976 was divided into four counts subjecting defendant to multiple convictions
23 for the single offense of pimping. Although involving different factual situations, the
24 concept that a defendant may not be subjected to multiple convictions for only one
25 criminal act is articulated in *People v. Lyons*, 50 Cal.2d 245, 275 [324 P.2d 556]
26 (possession of several articles stolen from separate victims, single offense); *People v.*
27 *Smith*, 26 Cal.2d 854, 858-859 [161 P.2d 941] (simultaneous receipt of three articles of
28 stolen goods, single offense); *People v. Bowie*, 72 Cal.App.3d 143, 156 [140 Cal.Rptr. 49]

1 (11 counts of possession of blank and unfinished checks, single offense); *People v.*
 2 *Aresen*, 91 Cal.App.2d 26, 37 [204 P.2d 389] (two counts of illegal sale of the same stock,
 3 single offense) and *People v. Puppilo*, 100 Cal.App. 559, 562 [280 P. 545] (unlawful
 4 possession of two pistols, one offense). Nevertheless, despite Petitioner's prior conviction
 5 of the exact same conduct, the Orange County Superior Court blatantly violated
 6 Petitioner's constitutional rights and forced her to go through a jury trial, relying on the
 7 exact same evidence in the Case No. 19CM06724.

8 3. Docket summary of Case No. 23CM00067, indicating that on March 28,
 9 2023 Petitioner was Found Not Guilty by Jury, attached hereto as Exhibit 3. In Case No.
 10 19CM06724, Juror 102, a delivery driver, requested to be excused due to financial
 11 hardship. ECF 4, p. 4. The trial court denied his request and defense counsel failed to
 12 object. In Case No. 23CM00067, each potential juror was asked if they would change
 13 their position due to pressure, such as when deliberating on Friday late afternoon close to
 14 weekend. In Case No. 19CM06724, the jury panel had little to no well-educated
 15 individuals. In Case No. 23CM00067, the jury panel had a civil attorney and an engineer
 16 graduated from MIT. In Case No. 19CM06724, no officer was called to testify. In Case
 17 No. 23CM00067, trial counsel effectively attacked the investigator for her poor police
 18 work, i.e. failure to provide metadata or IP address, and failure to interview Czodor's
 19 wife. In Case No. 19CM06724, the complaining witness concealed his marital status and
 20 presented himself as a single innocent young man looking for a relationship through a
 21 dating app in 2018. ECF 4, pp. 29-109. In Case No. 23CM00067, trial counsel exposed
 22 the concealed marital status of the complaining witness and highlighted the fact that the
 23 complaining witness sent unsolicited nude photos to Petitioner. Despite the complaining
 24 witness testified that he was separated from his wife in 2018¹, he met no one else but
 25 Petitioner from the dating app and he sent no one else but Petitioner his nude photos, the
 26 jury did not buy his story.

27 1 Tomas Czodor's testimony about being separated from his wife in 2018 is another perjury. Three years following
 28 2018, for each year he still filed taxes with his wife as a married couple. As of 2022, his wife still lived with him in
 the same home. His wife still co-owns their residence.

1 I declare under penalty of perjury under the laws of the State of California and
2 United States of America that the foregoing is true and correct.

3

4 Respectfully submitted,

5

Date: April 6, 2023

6 /s/ Xingfei Luo

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CERTIFICATE OF SERVICE

I declare that I electronically filed the foregoing with the United States District Court, Central District of California. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and United States of America that the foregoing is true and correct.

Executed on April 6, 2023

/s/ XINGFEI LUO

XINGFEI LUO, In Pro Per

EXHIBIT 1

1 SUPERIOR COURT OF CALIFORNIA
2 COUNTY OF ORANGE, CENTRAL JUSTICE CENTER
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5

6 THE PEOPLE OF THE STATE OF CALIFORNIA,) COMPLAINT
7) BWC AGENCY
8 Plaintiff,) AMENDMENT 1
9)
10 vs.) No. 23CM00067
11 XINGFEI LUO [REDACTED]) SAPD 22-09260
12 [REDACTED]) DOMESTIC VIOLENCE
13)
14 Defendant(s))

15 The Orange County District Attorney charges that in Orange
16 County, California, the law was violated as follows:
17

18 COUNT 1: On or about April 20, 2022, in violation of Section 166
19 (a) (4) of the Penal Code (DISOBEY COURT ORDER), a MISDEMEANOR,
20 XINGFEI LUO did willfully and unlawfully disobey the terms of a
21 process and court order lawfully issued on or about 10/01/21 by
22 the Superior Court, in and for the County of Orange County,
23 State of California, 18V002374, which lawfully ordered defendant
24 to remove any pictures or references of the protected party from
any social media websites or blogs she may have posted.
25

26 I declare under penalty of perjury, on information and belief,
27 that the foregoing is true and correct.
28

29 Dated 02-08-2023 at Orange County, California.
30 SA/CM 22C07939

31
32 TODD SPITZER, DISTRICT ATTORNEY

33 by:
34 _____
35 Deputy District Attorney

XINGFEI LUO SAPD 22-09260 PAGE 2

1 RESTITUTION CLAIMED

2
3 [] None
4 [] \$ _____
5 [X] To be determined

6 NOTICES:

7 The People request that defendant and counsel disclose, within
8 15 days, all of the materials and information described in Penal
9 Code section 1054.3, and continue to provide any later-acquired
10 materials and information subject to disclosure, and without
11 further request or order.

12 The People intend to proceed pursuant to Evidence Code sections
13 1101(b), 1107, 1109, and 1370.

14 Pursuant to Welfare & Institutions Code §827 and California Rule
15 of Court 5.552, notice is hereby given that the People will seek
16 a court order to disseminate the juvenile case file of the
17 defendant/minor, if any exists, to all parties in this action,
18 through their respective attorneys of record, in the prosecution
19 of this case.

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EXHIBIT 2

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

1 FRANK DAVIS
2 Alternate Public Defender
3 Marian Mikhail
4 Deputy Alternate Defender
5 600 W. Santa Ana Blvd., Suite 600
6 Santa Ana, CA 92701
7 Fax: (714) 835-8400
8 *Attorneys for Defendant*

MAR 14 2023

DAVID H. YAMASAKI, Clerk of the Court

BY: _____, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

XINGFEI LUO,

Defendant.

) Case No.: 23CM00067

) NOTICE OF MOTION; MOTION TO
) DISMISS IN VIOLATION OF
) DOUBLE JEOPARDY UNDER THE
) CALIFORNIA AND US
) CONSTITUTIONS; PENAL CODE
) SECTION 654; AND IN THE
) INTEREST OF JUSTICE UNDER
) PENAL CODE SECTION 1385

TO: ORANGE COUNTY DISTRICT ATTORNEY,

PLEASE TAKE NOTICE that on **MARCH 21, 2023**, or sooner if the order for shortening time is granted, at 9:00 a.m. in Department C47 of the above-entitled court, Defendant will move the court for an order dismissing the complaint pursuant to double jeopardy under the U.S. and CA Constitutions; Penal Code Section 654; and in the interest of justice under Penal Code Section 1385.

MOTION

The Defendant hereby moves the court for an order dismissing the complaint in the above-entitled matter on the ground that her right to once in jeopardy has been violated pursuant to the 5th and Fourteenth Amendments to the U.S. Constitution, Article I, Section 15, of the California Constitution, and sections 654 and 1385 of the California Penal Code. This motion is based on these

RECEIVED

MAR 14 2023

OFFICE OF THE DISTRICT ATTORNEY
CENTRAL JUSTICE CENTER
SANTA ANA, CA

1 of 21

Defendant's Omnibus Motion to Dismiss

1 moving papers, Case Nos. 18V002374, 19CM06724, and 23CM00067, and any exhibits presented
2 and argument made at the hearing.

3 **STATEMENT OF FACTS AND ATTORNEY DECLARATION**

4
5 The following declaration and statement of facts are based on my personal knowledge
6 and/or information from the court management systems, case files, transcripts, discovery, and
7 procedural history of Case Nos.18V002374, 19CM06724, and 23CM00067.

8 According to Case No. Case No.18V002374, on September 28, 2018, complaining witness
9 Tomas Czodor obtained a temporary restraining order at Lamoreaux Justice Center against Ms. Luo.
10 Tomas Czodor claimed that on September 11, 2018, Ms. Luo improperly posted information,
11 photos, and videos about Tomas Czodor. Tomas Czodor claimed provided photos and listed
12 websites in his petition for a restraining order, such as:

14 <https://www.youtube.com/watch?v=GUWLrXEC7jo>
15 <https://www.youtube.com/watch?v=Wb1OlnVDmfA>
16 <https://www.youtube.com/watch?v=uYebVZyYN84>
17 <https://www.youtube.com/watch?v=gOIZigNKw2A> (and for short, youtu.be/
gOIZigNKw2A)
18 <http://www.cheaterreports.com/tomas-czodor/>
19 <https://reportcheatingwife.com/tomas-czodor-santa-ana-orange-county-ca/>
20 <http://www.cheaterplanet.com/category/cheaters>
21 <https://wtfcheater.com/tomas-czodor-santa-ana-orange-county-ca/>
<https://reportcheatingonline.com/tomas-czodor-santa-ana-orange-county-ca/>
<http://gorgeouspainting1.blogspot.com/>
<https://gorgeouspainting.wordpress.com/>

22 See Case No.18V002374.

23 On October 19, 2018, the court conducted a hearing on the restraining order. At the hearing,
24 in addition the exhibits submitted, Tomas Czodor testified and claimed that Ms. Luo posted online
25 information about him “28 times.” The Court ultimately issued a permanent 5 year restraining
26 order with an expiration for October 19, 2023.
27

1 The order required Ms. Luo to fully stay away from Tomas Czodor, along with an
2 andendum stating:

3 Responding Party is ordered to cease posting the picture or likeness of
4 the Moving Party or refer to him by name on any social media
5 website or blog. **Responding Party is further ordered to remove**
6 **any pictures or references of the Moving Party from any social**
7 **media website or blog she may have posted.**

8 See Case No.18V002374 (emphasis added).

9 On August 6, 2019, nearly a year later, the District Attorney filed criminal charges against
10 Ms. Luo—count 1 for vandalism of less than \$400; count 2 for disobeying a domestic relations
11 court order for “coming within 100 yards of the protected person”; and count 3 for disorderly
12 conduct unlawful dissemination of private photographs and recordings on or around September 18,
13 2018. See Case No. 19CM06724. The case centered on claims Tomas Czodor made in his
14 restraining order petition against Ms. Luo in Case No.18V002374.

15 On August 12, 2019, the Orange County Public Defender was appointed and Ms. Luo was
16 arraigned and entered a plea of not guilty.

17 On July 26, 2021, the District Attorney amended the complaint one day prior to trial to
18 amend the underlying conduct in count 2 of disobeying a domestic relations court order from being
19 within 100 yards to the claim that Ms. Luo “**failed to deactivate website and created new**
20 **websites.**”

21 On July 27, 2021, the 19CM06724 jury trial began. At trial, the the prosecution admitted
22 into evidence testimony and exhibits of websites from 2018 that violated the family court protective
23 order in Case No.18V002374. At trial, the prosecution admitted multiple exhibits depicting websites
24 that were addressed in family court, including a transcript of the family court hearing on October
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1 19, 2018, where Tomas Czodor testified that Ms. Luo posted about him “28 times,” which included
2 “7 cheater websites” and “10 YouTube” videos. *See* Case No. 19CM06724.

3 On July 29, 2021, the jury returned a verdict of guilty on all counts to Case No.
4 19CM06724.

5 A few months after the guilty verdict, on October 1, 2021, Lamoreaux Justice Center
6 conducted another hearing because Ms. Luo sought to terminate the order. The family court
7 maintained the same full stay away order and same expiration for October 19, 2023, but amended
8 the addendum by adding a second paragraph to comport with Free Speech guarantees and
9 protections:

10 Restrained Party is further ordered to remove any pictures or
11 references of the Protected Party from any social media websites or
12 blogs she may have posted.

13 Restrained Party shall not post any pictures or likeness of the
14 Protected Party or refer to him by name on any social media or
15 website or blog that would be abusive pursuant to FC §6203 and
16 FC§63210.

17 *See* Case No.18V002374. The language in the first paragraph—requiring Ms. Luo to
18 remove any photos or websites she may have posted—did not change from the
19 October 19, 2018 order.

20 Shortly thereafter, on October 26, 2021, the Criminal Court set restitution in the amount of
21 \$82,346.00 plus 10% interest per year and 10% administrative fee(s) as to count(s) 1, 2, 3 for
22 Tomas Czodor.

23 On November 15, 2021, the Public Defender declared a conflict and the Alternate Defender
24 was appointed.

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1 On behalf of Ms. Luo, the Alternate Defender sought to modify and challenge the restitution
2 amount.

3 On or around November 24, 2021, the prosecution provided defense counsel with a
4 restitution report claiming \$82,346.00 in loss for website removal, income loss, painting repairs, and
5 cost and installation of security cameras. The prosecution again added more claims on or around
6 May 9, 2022, claiming total loss in the amount of \$107,720.76 for income loss, website removal
7 costs, security system purchase and installation, painting repairs, fees for the restraining order
8 obtained, and attorney fees. Tomas Czodor provided quotes and bills for most of the recovery. He
9 claimed and submitted a quote from a company called Guaranteed Removal in the amount of
10 \$54,000 for the removal of 27 links that the prosecution and Tomas Czodor claimed that Ms. Luo
11 posted. *See* Case No. 19CM06724.

14 Unbeknownst to defense, prior to the restitution hearing that was scheduled on May 9, 2022,
15 Tomas Czodor made another police report against Ms. Luo on April 26, 2022 claiming violation of
16 the restraining order.

18 On June 8, 2022, the Court conducted the sentencing, restitution hearing, after continuing
19 the May 9, 2022 hearing. Judge Knox modified the restitution in the amount of \$93,003.76 as to
20 count(s) 1, 2, 3 plus 10% interest from date of sentence per year, payable thru Victim Witness. Of
21 the \$93,003.76, the Court awarded the \$54,000 for website removal of the 27 links admitted at the
22 hearing. The following links were admitted at the restitution, sentencing hearing:

24 <https://cheaterbot.me/05/tomas-czodor-santa-ana-california/amp/>
25 <https://officialcheaters.com/tomas-czodor-california/>
26 <http://www.ripofflist.com/tomas-czodor-california/>
27 <http://www.ripofflist.com/tomas-czodor-california/>
28 <https://www.complainboard.com/tomas-czodor-california/>
 <https://www.badboysreport.com/tomas-czodor-california/>
 <https://www.dirtyex.com/tomas-czodor-california/>

1 <https://www.worstcheaters.com/tomas-czodor-california/>
2 <https://hellocheater.online/tomas-czodor-santa-ana-california/>
3 <https://xbtch.com/reviews/tomas-czodor-santa-ana-ca/97153/>
4 <https://ask-anita.com/complaints/tomas-czodor-santa-ana-ca/>
5 <https://cheatersdiaries.com/tomas-czodor-california/>
6 <https://cheaters.exposed/tag/tomas-czodor-california-cheater-report/>
7 <https://www.theevildoer.com/?s=Tomas+Czodor+>
8 <http://gorgeouspainting1.blogspot.com>
9 <https://gorgeouspainting.wordpress.com/>
10 <https://reportcheaterincalifornia.wordpress.com/blog>
11 <http://liarsandcheaters.com/tomas-czodor-santa-ana-orange-county-ca.html>
12 <http://cheaterland.com/tomas-czodor-santa-ana-ca.html>
13 <http://www.cheaterreports.com/tomas-czodor/>
14 <https://reportcheatingonline.com/tomas-czodor-santa-ana-orange-county-ca/>
15 <https://wtfcheater.com/tomas-czodor-santa-ana-orange-county-ca/>
16 <https://reportcheatingwife.com/tomas-czodor-santa-ana-orange-county-ca/>
17 <http://www.cheaterplanet.com/tomas-czodor-santa-ana-orange-county-ca.html>
18 <https://www.youtube.com/channel/UC2G1-iqyaZoYAetalVsE4mg/about>
19 <https://www.youtube.com/channel/UCUUozht2tl-dK5jROTqnzyg/about>
20 <https://www.facebook.com/photo.php?fbid=10216661770199693&set=pb.1323771948.-2207520000 .. &type=3>

21 See Case No. 19CM06724

22 At the restitution, sentencing hearing, the prosecution did not prove that each link was in
23 fact operable, but instead through the complaining witness testimony, claimed Tomas Czodor was
24 entitled to the resitution in order to provide him with the monetary means to remove the websites.
25 Prior to the resitution hearing, I recall verifying that only 2 out of the 27 links were actually in
26 operation.

27 After the sentencing, restitution hearing ended, Ms. Luo received a letter from law
28 enforcement in early September 2022, and she notified me immediately. In response, I contacted the
detective and left a voicemail invoking Ms. Luo's constitutional rights and informed the detective to
refrain from speaking with Ms. Luo without the presence of legal counsel. The detective never
called back nor informed me what the underlying investigation was about.

1 On December 20, 2022, the Orange County District Attorney filed charges against Ms. Luo
2 for violating Penal Code Section 273.6 on or around April 20, 2022. The District Attorney
3 scheduled arraignment on February 24, 2023.

4 When Ms. Luo received the arraignment letter, she contacted me and asked me what these
5 new charges were about. According to the complaint on Vision:

6 On or about April 20, 2022, in violation of Section 273.6(a) of the
7 Penal Code (VIOLATION OF A PROTECTIVE ORDER), a
8 MISDEMEANOR, XINGFEI LUO did intentionally, knowingly, and
9 unlawfully violate an order issued pursuant to Family Code sections
10 6320 and 6389 by contacting protected party through online means.

11 See Case No. 23CM00067.

12 In response to the ambiguous complaint, I filed a motion to dismiss on January 25, 2023,
13 pursuant to Due Process under the U.S. and CA constitutions for facially insufficiency of the
14 complaint, along with a demur under Penal Code Section 1004.

15 On February 7, 2023, the motion to dismiss was heard. However, prior to any court ruling,
16 the prosecution agreed to amend the complaint on its own volition. The first amended complaint
17 was filed on February 8, 2023 and read as follows:

18 On or about April 20, 2022, in violation of Section 166 (a) (4) of the
19 Penal Code (DISOBEY COURT ORDER), a MISDEMEANOR,
20 XINGFEI LUO did willfully and unlawfully disobey the terms of a
21 process and court order lawfully issued on or about 10/01/21 by the
22 Superior Court, in and for the County of Orange County, State of
23 California, 18V002374, which lawfully ordered defendant to remove
24 any pictures or references of the protected party from any social
25 media websites or blogs she may have posted.

26 On February 10, 2023, Ms. Luo was arraigned on the new charges. The prosecution
27 provided defense counsel with the police report, which traced back to Tomas Czodor's April 26,
28 2022 complaint made prior to the scheduled May 9, 2022 resituation hearing.

1 The police report alleged violations for failing to remove websites about Tomas Czodor
2 involving the older posts addressed in the family court case and the 19CM06724 trial and/or the
3 sentencing, resitution hearing. The police verified that some of the older 2018 postings no longer
4 worked and/or that the creator was unidentifiable. Tomas Czodor also speculated and accused Ms.
5 Luo of newer posts, but the police verified that some of those posts were inoperable and/or that the
6 creator was unidentifiable.

7
8 On March 13, 2023, the assigned trial Deputy District Attorney for the month of March,
9 informed me the prosecution is for the failure to remove the following website postings:

10 <http://gorgeouspainting1.blogspot.com>
11 <https://gorgeouspainting.wordpress.com/>
12 <https://www.youtube.com/channel/UC2G1-iqyaZoYAetalVsE4mg/about>

13 These are the same websites that were addressed at the 19CM06724 trial October 19, 2018.

14
15 I declare under penalty of perjury that the foregoing is true and correct.

16
17 DATED: March 13, 2023

18 Respectfully submitted,
19 FRANK DAVIS, Alternate Public Defender
20



21 _____
22 Marian Mikhail
23 Deputy Alternate Defender
24 Marian.mikhail@ocaltdef.com
25
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MEMORANDUM OF LAW

I. A SUBSEQUENT PROSECUTION THAT INVOLVES THE SAME ALLEGED CRIMINAL ACT OF A PRIOR PROSECUTION VIOLATE DOUBLE JEOPARDY UNDER THE 5TH AMENDMENT OF THE U.S. CONSTITUTION AND ARTICLE I, SECTION 15, OF THE CALIFORNIA CONSTITUTION.

The Fifth Amendment to the United States Constitution guarantees that no “person will be subject for the same offense to be twice put in jeopardy of life or limb.” The Cal. Const. art. I, § 15, contains a nearly identical provision. These constitutional provisions include several distinct protections, including prohibitions against:

- (1) a second prosecution for the same offense after acquittal (*Illinois v. Vitale*, 447 U.S. 410, 415 (1980));
- (2) a second prosecution for the same offense after conviction (*U.S. v. Dixon*, 509 U.S. 688 (1993));
- (3) reprocution after jeopardy had attached in a prior trial that was terminated without a verdict (see *U.S. v. DiFrancesco*, 449 U.S. 117, 130 (1980));
- (4) successive prosecutions for the same criminal act under two different statutes containing the same elements (*U.S. v. Dixon*, 509 U.S. 688, 696 (1993)); and
- (5) multiple prosecutions when collateral estoppel or res judicata applies to an issue of ultimate fact that has been resolved in a prior criminal proceeding, it cannot be relitigated in a subsequent prosecution or retrial (*Yeager v. U.S.*, 557 U.S. 110, 120–121 (2009); *Brown v. Superior Court*, 187 Cal. App. 4th 1511, 1524 (2d Dist. 2010)).

Jeopardy attaches when the defendant is placed on trial on a valid accusatory pleading before a competent court. In a jury trial, jeopardy attaches when the jury is impaneled and sworn. *Martinez v. Illinois*, 134 S. Ct. 2070, 2074 (2014); *Crist v. Bretz*, 437 U.S. 28, 35 (1978). If alternate jurors are used, jeopardy does not attach until the alternates are sworn. *In re Mendes*, 23 Cal. 3d 847, 852–854 (1979).

1 **II. A SUBSEQUENT PROSECUTION THAT INVOLVED THE SAME COURSE OF**
2 **CONDUCT PROSECUTED IN THE PAST VIOLATES CALIFORNIA PENAL**
3 **CODE SECTION 654.**

4 California is not precluded from providing greater double jeopardy protection than that
5 provided by the U.S. Constitution. *Curry v. Superior Court*, 2 Cal. 3d 707, 717 (1970). California
6 provides additional protections embodied in several Penal Code sections. *See e.g.*, Pen. Code §§
7 654(a), 656, 687, and 1023. The Fifth Amendment establishes minimum, double jeopardy
8 protection standards. Under the independent state grounds doctrine, California courts look both to
9 decisions applying the Fifth Amendment and to decisions applying California constitutional and
10 statutory protections. *Bunnell v. Superior Court*, 13 Cal. 3d 592, 601 (1975).

11 The California Supreme Court has expressly recognized that the purpose of Pen Code §
12 654 is to prevent “needless harassment” of a defendant and, therefore, “all offenses ... which arise
13 out of the same ... course of conduct must be prosecuted in a single proceeding.” *People v.*
14 *Lohbauer*, 29 Cal. 3d 364 (1981).

15 Accordingly, Pen. Code, § 654 is a statutory bar, rather than a constitutional prohibition,
16 against multiple prosecutions for the same offense. However, the protection under Pen. Code, §
17 654 resembles that afforded by the double jeopardy clause, but is different in scope in that it applies
18 only after an acquittal or a conviction and sentencing.

19 In *Kellett v. Superior Court of Sacramento County*, the Supreme Court held that when “the
20 prosecution is or should be aware of more than one offense in which the same act or course of
21 conduct plays a significant part, all such offenses must be prosecuted in a single proceeding unless
22 joinder is prohibited or severance is permitted for good cause. 63 Cal. 2d 822, 827(1966). **Failure**
23 **to unite all such offenses will result in a bar to subsequent prosecution of any offense omitted**

1 if the initial proceedings culminate in either acquittal or conviction and sentence.” *Id.*
2 (emphasis added).

3 Following *Kellett* and Pen. Code § 654, our appellate courts have adopted two different tests
4 to determine a course of conduct for purposes of multiple prosecution *People v. Valli*, 187 Cal. App.
5 4th 786 (3d Dist. 2010). Some appellate courts have established a “time and location” test to
6 determine a course of conduct for purposes of multiple prosecution. These courts
7 find *Kellett* inapplicable where the offenses are committed at separate times and locations, even
8 though the prosecution is aware of the other offenses. See *People v. Marlow*, 34 Cal. 4th 131, 144
9 (2004) (“the murder of separate victims on separate days in separate counties is not a single act or
10 even a ‘course of conduct’ requiring a single prosecution”); *People v. Douglas*, 246 Cal. App. 2d
11 594 (2d Dist. 1966) (series of robberies tried separately from homicide committed during one of the
12 robberies); *People v. Ward*, 30 Cal. App. 3d 130 (2d Dist. 1973) (two separate but related victims
13 assaulted at different locations and time); *People v. Cuevas*, 51 Cal. App. 4th 620 (2d Dist. 1996).

14 A second test applies *Kellett* based on the totality of the facts and whether separate proofs
15 are required for the different offenses. See *People v. Flint*, 51 Cal. App. 3d 333 (2d Dist. 1975).
16 This evidentiary test was restated in *People v. Hurtado*, 67 Cal. App. 3d 633 (2d Dist. 1977): “More
17 specifically, if the evidence needed to prove one offense necessarily supplies proof of the other ...
18 the two offenses must be prosecuted together, in the interests of preventing needless harassment and
19 waste of public funds.” However, this evidentiary test requires more than an overlap of the
20 evidence. Simply using facts from the first prosecution in the subsequent prosecution does not
21 trigger application of *Kellett*. *People v. Valli*, 187 Cal. App. 4th 786 (3d Dist. 2010) (there was little
22 evidentiary overlap between a murder trial and the subsequent trial for evading arrest, because the
23 People only used the evidence of evading in the murder trial to show consciousness of guilt). See
24

1 *also People v. Linville*, 27 Cal. App. 5th 919 (1st Dist. 2018), review denied, (Jan. 16, 2019)
2 (conviction as an accessory to murders did not require proof, nor was it alleged, that defendant was
3 involved in either charged killing, therefore, accessory conviction did not require and was not
4 predicated on an allegation that defendant committed, or was involved in, the murders and the
5 accessory and murder prosecutions did not involve the same course of conduct).

6
7 If it is determined that the prosecution did have timely actual knowledge of multiple
8 prosecutions arising from the same conduct, and one of the prosecutions resulted in either acquittal
9 or conviction and sentence, then the remaining unresolved prosecution is barred by Pen. Code, §
10 654. *In re Dennis B.*, 18 Cal. 3d 687, 693–696 (1976).

11
12 There are several factors to be weighed in determining whether the prosecutor should have
13 known of the other offense. The threshold factor is the disparity, if any, between the two charged
14 offenses. When both are serious offenses, the court in *In re Dennis B.*, 18 Cal. 3d 687, 694 (1976),
15 recognized the duty imposed on the prosecution.

16
17 When both offenses are serious crimes, the potential for harassment and waste is sufficiently
18 strong that Section 654 imposes on prosecutors an administrative duty to insure that the charges are
19 joined. Although occasional failure to coordinate prosecutorial efforts may result in a defendant
20 guilty of a felony escaping proper punishment, such a risk “is inherent in the preclusion of Section
21 654 of multiple punishment.”

22
23 When the original charge is not a serious crime, the court must then weigh: (1) the disparity
24 in gravity between the charged offenses; (2) the state's substantial interest in maintaining the
25 summary nature of minor offenses; and (3) the state's interest in prosecuting felonies and serious
26 misdemeanors. *In re Dennis B.*, 18 Cal. 3d 687, 695–696 (1976); *Kellett v. Superior Court of*
27 *Sacramento County*, 63 Cal. 2d 822, 827–828 (1966).

1 **III. A SUBSEQUENT PROSECUTION THAT INVOLVES IDENTICAL ISSUES OF A**
2 **PRIOR PROSECUTION IS BARRED UNDER THE DOCTRINE OF COLLATERAL**
3 **ESTOPPEL.**

4 In *Ashe v. Swenson*, 397 U.S. 436, 445 (1970), the Supreme Court held that the doctrine of
5 collateral estoppel is contained in the Fifth Amendment guarantee against double jeopardy.

6 As the Supreme Court stated in *Ashe v. Swenson*, 397 U.S. 436, 443–444 (1970): “Collateral
7 estoppel” is an awkward phrase, but it stands for an extremely important principle in our adversary
8 system of justice. It means simply that when an issue of ultimate fact has once been determined by a
9 valid and final judgment, that issue cannot again be litigated between the same parties in any future
10 lawsuit. Although first developed in civil litigation, collateral estoppel has been an established rule
11 of federal criminal law at least since this court’s decision more than 50 years ago in *U.S. v.*
12 *Oppenheimer*, 242 U.S. 85, (1916) ...

14 Federal appellate decisions establish that the rule of collateral estoppel in criminal cases is
15 not to be applied in the hyper technical and archaic approach of 19th century pleading, but with
16 realism and rationality. Where a previous judgment of acquittal was based upon a general verdict, as
17 is usually the case, this approach requires a court to “examine the record of a prior proceeding,
18 taking into account the pleadings, evidence, the charges, and other relevant matter and conclude
19 whether a rational jury could have grounded its verdict upon an issue other than that which the
20 defendant seeks to foreclose from consideration.” *Schiro v. Farley*, 510 U.S. 222, 247–248 (1994).

23 The doctrine is based upon the sound public policy of limiting litigation by preventing a
24 party who has had one fair trial on an issue from again requiring litigation. The purposes of
25 collateral estoppel are to promote judicial economy by minimizing repetitive litigation, to prevent
26 inconsistent judgments which undermine the integrity of the judicial system, and to provide repose

1 by preventing a person from being harassed by vexatious litigation. *People v. Taylor*, 12 Cal. 3d
2 686, 695 (1974).

3 “[F]ive threshold requirements” must be established for collateral estoppel to bar relitigation
4 of an issue: “(1) the issue to be precluded must be identical to that decided in the prior proceeding;
5 (2) the issue must have been actually litigated at that time; (3) the issue must have been necessarily
6 decided; (4) the decision in the prior proceeding must be final and on the merits; and (5) the party
7 against whom preclusion is sought must be in privity with the party to the former proceeding.”
8 *People v. Garcia*, 39 Cal. 4th 1070 (2006); *People v. Vogel*, 148 Cal. App. 4th 131 (3d Dist. 2007).

9

10 **IV. THE INTEREST OF JUSTICE DEMANDS DISMISSAL.**

11

12 The court has authority under Pen. Code § 1385 to dismiss a prosecution in the “furtherance
13 of justice” at any time, including after trial. “Dismissals under Section 1385 may be proper before,
14 during and after trial.” *People v. Orin*, 13 Cal. 3d 937 (1975). Pen. Code § 1385 permits a trial court
15 to dismiss individual counts in accusatory pleadings, sentencing enhancements, allegations that the
16 defendant has suffered a prior conviction, and allegations that the defendant has suffered a prior
17 “strike.” *In re Varnell*, 30 Cal. 4th 1132, 1134 (2003).

18

19 In *People v. Superior Court of Marin County*, 69 Cal. 2d 491, 505 (1968), the court set forth
20 a balancing test to guide the court in determining whether to dismiss in the interests of justice. The
21 factors to be weighed include: (1) the weighing of the evidence indicative of guilt or innocence; (2)
22 the nature of the crime involved; (3) the fact that the defendant has or has not been incarcerated in
23 prison awaiting trial and the length of such incarceration; (4) the possible harassment and burdens
24 imposed upon the defendant by a retrial; and (5) the likelihood, if any, that additional evidence will
25 be presented upon a retrial. “When the balance falls clearly in favor of the defendant, a trial court
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1 not only may but should exercise the powers granted to him by the Legislature and grant a dismissal
2 in the interests of justice.”

3 The power invested in the court by Pen. Code § 1385 is a discretionary power that rests
4 solely with the court. The power of the court to dismiss on its own motion is unaffected by
5 prosecution objection. As the court stated in *People v. Tenorio*, 3 Cal. 3d 89 (1970):

6 The judicial power is compromised when a judge, who believes that a
7 charge should be dismissed in the interests of justice, wishes to
8 exercise the power to dismiss but finds that before he may do so he
9 must bargain with the prosecutor. A judicial power must be
10 independent, and a judge should never be required to pay for its
exercise.

11 The California Supreme Court has held that “the discretion of the judge [under Section 1385] is
12 absolute except where the Legislature has specifically curtailed it.” *People v. Superior Court of*
13 *Marin County*, 69 Cal. 2d 491 (1968).

14

15 **ARGUMENT**

16

17 **I. THIS CURRENT PROSECUTION VIOLATES DOUBLE JEOPARDY UNDER THE** 18 **5TH AMENDMENT OF THE U.S. CONSTITUTION AND ARTICLE I, SECTION 15,** 19 **OF THE CALIFORNIA CONSTITUTION.**

20 Frist, the current prosecution violates Ms. Luo’s Federal and California Constitutional
21 guarantees because she cannot be tried for the same offense once previously prosecuted and
22 convicted. *U.S. v. Dixon*, 509 U.S. 688 (1993). Second, the two prosecutions involve the same
23 criminal act, but under two different statutes containing the same elements, which also violates
24 Constitutional guarantees. *See (U.S. v. Dixon*, 509 U.S. 688 (1993). *Id.* At 696. Lastly, collateral
25 estoppel applies here because an issue of ultimate fact that has been resolved in Ms. Luo’s prior
26 criminal proceeding, cannot be relitigated in a subsequent prosecution or retrial. *Yeager v. U.S.*, 557
27 U.S. 110, 120–121 (2009); *Brown v. Superior Court*, 187 Cal. App. 4th 1511, 1524 (2d Dist. 2010).

a. Same Offense Once Previously Prosecuted

The facts, order, and issue in this prosecution is the same as 19CM06724. Ms. Luo was found guilty of count 2, Penal Code Section 273.6, of Case No. 19CM06724, which alleged Ms. Luo disobeyed a domestic relations court order for “fail[ing] to deactivate websites and creat[ing] new websites. At sentencing, Ms. Luo was ordered to pay Tomas Czodor \$54,000 in order to give him money to remove 27 websites the prosecution purported Mr. Czodor was entitled to in connection to Count 2’s conviction.

Ms. Luo is now charged with Penal Code Section 166(a)(4) in Case No. 23CM00067 for failing to “to remove any pictures or references of the protected party from any social media websites or blogs she may have posted.” The same links the prosecution intends to criminalize in this case, Case No. 23CM00067, are the same links that Ms. Luo was held liable for in Case No. 19CM06724. Both cases rely upon the same family court order issued out of Case No. Case No.18V002374.

The prosecution’s attempt to rely on the family court’s amended order that was issued on October 01, 2021 for this secondary prosecution—as opposed to the initial order issued on October 19, 2018 involving Case No. 19CM06724—is a logical fallacy to suggest there are two separate orders that warrant two separate causes of action. There is only one order, and that amendment issued on October 1, 2021 never modified Ms. Luo’s restraints, but only changes what can prospectively be communicated online to comport with Free Speech guarantees. Nonetheless, the same provision that was relied upon in the 19CM06724 prosecution is the same provision this prosecution relies upon, which is the “[r]esponding Party is further ordered to remove any pictures or references of the Moving Party from any social media website or blog she may have posted.”

1 This provision exists in both version of the order that was issued on October 19, 2018 and October
2 01, 2021.

3 **b. Same Criminal Act, but Under Two Statutes**

4
5 Ms. Luo's constitutional rights are not obviated because this current prosecution alleges the
6 same violation under a different statute. The criminal act in the prior prosecution of Case No.
7 19CM06724 is the same as the current prosecution of Case No. 23CM00067, which involve the
8 same elements. Both counts require the government to prove beyond a reasonable doubt that: (a) a
9 court lawfully issues a written order that the defendant [insert description of the order]; (b) the
10 defendant knew of the order; (c) the defendant had the ability to follow the order; and the (d) the
11 defendant willfully violated the court order.

12
13 **c. Collateral Estoppel**

14
15 *See infra. Section III of Argument.*

16 **II. THIS CURRENT PROSECUTION VIOLATES PENAL CODE SECTION 654
17 UNDER CALIFORNIA LAW.**

18 The prosecution should be barred from prosecuting Ms. Luo in Case No. 23CM00067
19 because she was already prosecuted and punished for count 2 of Case No. 19CM06724. Penal Code
20 Section 654(a) states:

21
22 An act or omission that is punishable in different ways by different
23 provisions of law may be punished under either of such provisions,
24 but in no case shall the act or omission be punished under more than
one provision. An acquittal or conviction and sentence under any one
bars a prosecution for the same act or omission under any other.

25 Section 654 imposes a duty onto the prosecution to join all offenses in a single prosecution; and
26 when the prosecution fails to unite all causes of action it knew about, or should have known about,
27 the Supreme Court has held a bar in prosecutions. *See Kellet*, 63 Cal. 2d 822, 827(1966) ("Failure to

1 unite all such offenses will result in a bar to subsequent prosecution of any offense omitted if the
2 initial proceedings culminate in either acquittal or conviction and sentence.”).

3 Here, the current websites at issue stem from postings that go back to 2018. The prosecution
4 actually knew about these websites at the time of the 19CM06724 prosecution. This is demonstrated
5 by the prosecution’s decision to amend the 19CM06724 complaint and the specific evidence it
6 admitted at trial and the resitution hearing. The prosecution amended the complaint to state the
7 violation of the restraining order was for failing to remove websites and creating new ones.
8 Therefore, the prosecution knew about websites alleged at the family court hearing on October 19,
9 2018, but “new” websites in addition to what occurred at the hearing, in accordance to the
10 complaint’s allegation. Furthermore, the prosecution submitted exhibits and testimony from the
11 family court hearing of Tomas Czodor testifying about Ms. Luo posting “28 times” that involved
12 multiple cheater websites and youtube videos. Indicating the prosecution knew, or should have
13 known, what its star witness was talking about. Lastly, the prosecution admitted 27 links at the
14 resitution hearing, claiming Tomas Czodor was entitled to \$54,000 in resitution based on Ms. Luo’s
15 conviction of Count 2, exhibiting knowledge of the harm it sought to prosecute in 19CM06724 (and
16 seeks to prosecution again).

17 The same links the prosecution seeks to criminalize in this prosecution are the same links
18 that existed at the time Tomas Czodor filed for a restraining order in family court, Case
19 No.18V002374., and links that were admitted at the 19CM06724 trial and resitution hearing.

20 Lastly, there is nothing in the evidence to suggest this current prosecution needs different
21 evidence or information to warrant a successive prosecution under law. All of these accusations
22 involve the same family court restraining order, same complaining witnesses, and same evidence.
23

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1 **III. THIS CURRENT PROSECUTION SHOULD BE BARRED UNDER THE**
2 **DOCTRINE OF COLLATERAL ESTOPPEL.**

3 “[F]ive threshold requirements” must be established for collateral estoppel to bar relitigation
4 of an issue: “(1) the issue to be precluded must be identical to that decided in the prior proceeding;
5 (2) the issue must have been actually litigated at that time; (3) the issue must have been necessarily
6 decided; (4) the decision in the prior proceeding must be final and on the merits; and (5) the party
7 against whom preclusion is sought must be in privity with the party to the former proceeding.”
8 *People v. Garcia*, 39 Cal. 4th 1070 (2006); *People v. Vogel*, 148 Cal. App. 4th 131 (3d Dist. 2007).

9
10 Here, the issue in the prior case 19CM06724 is identical to the issue in this prosecution:
11 failure to remove websites in violations of family court ordered in Case No. 18V002374. The family
12 court order never specifically identified which websites Ms. Luo was required to remove or by what
13 date. Instead, it ordered to remove any website she may have posted. Because the family court order
14 did not identify what specific links must be removed, the issue in collateral estoppel should not be
15 expanded on whatever and whenever the prosecution seeks to prosecute based on a specific link it
16 sees fit for criminal liability. The issue here was failing to remove website which was clearly
17 litigated in case 19CM06724, and it ultimately resulted in a conviction, which is a final judgement
18 on the merits. Lastly, the prosecution involved the same exact parties as the former proceeding:
19 State of California versus Xingfei Luo, with the same complaining witness, Tomas Czodor.

20
21 **IV. THIS PROSECUTION SHOULD BE DISMISSED IN THE INTEREST OF JUSTICE**
22 **UNDER PENAL CODE SECTION 1385.**

23
24 In *People v. Superior Court of Marin County*, 69 Cal. 2d 491, 505 (1968), the court set forth
25 a balancing test to guide the court in determining whether to dismiss in the interests of justice. The
26 factors to be weighed include: (1) the weighing of the evidence indicative of guilt or innocence; (2)

1 the nature of the crime involved; (3) the fact that the defendant has or has not been incarcerated in
2 prison awaiting trial and the length of such incarceration; (4) the possible harassment and burdens
3 imposed upon the defendant by a retrial; and (5) the likelihood, if any, that additional evidence will
4 be presented upon a retrial. "When the balance falls clearly in favor of the defendant, a trial court
5 not only may but should exercise the powers granted to him by the Legislature and grant a dismissal
6 in the interests of justice."

7
8 Here, the interest of justice lays heavily in favor of Ms. Luo. The websites that the
9 prosecution seeks to criminalize are websites Ms. Luo has already been punished for by serving a
10 jail sentence, participating in weekly therapy for 52 weeks, and paying Tomas Czodor \$93,003.76,
11 and \$54,000 is specifically allotted to remove websites.

12
13 The successive prosecutions are tantamount to harassment and unfair prosecution. At the
14 restitution, sentencing hearing, the prosecution did not even prove that each link was validly
15 operating. Only 2 out of the 27 were operating at the time, and the complainant was awarded not
16 restitution, but a windfall.

17
18 Ms. Luo has been punished enough, legally and symbolically. Nothing in the evidence
19 suggests Ms. Luo is the creator and has dominion and control over these websites to remove them.
20 This secondary prosecution should be dismissed in the interest of justice.

21
22 **CONCLUSION**

23 For the foregoing reasons, Ms. Luo's case should be dismissed.

24

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1 DATED: March 14, 2023

2 Respectfully submitted,
3 FRANK DAVIS, Alternate Public Defender

4 

5 Marian Mikhail
6 Deputy Alternate Defender
7 Marian.mikhail@ocaltdef.com

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EXHIBIT 3

Case Summary

Case Number: 23CM00067

OC Pay Number: 11200090

Originating Court: Central

Pay or Appear by:

Traffic School Completion Date:

Next Payment Date:

Defendant: Luo, Xingfei

Demographics:

Eyes: Brown
 Hair: Black
 Height(ft/in) : 5'5"
 Weight (lbs): 96

Names:

Last Name	First Name	Middle Name	Type
Luo	Xingfei		Real Name
Lou	Xingfei		Alias

Case Status:

Status: Dismissed
 Case Stage:
 Release Status: Released on Own Recognition
 Warrant: N
 DMV Hold : N
 Charging Document: Complaint
 Mandatory Appearance: Y
 Owner's Resp: N
 Amendment #: 1

Counts:

Seq S/A	Violation Date	Section Statute	OL	Violation	Plea	Plea Date	Disposition	Disposition Date
1	0 04/20/2022	166(a)(4) PC	M	Contempt of court - disobey court order	NOT GUILTY	02/10/2023	Found Not Guilty by Jury	03/28/2023

Participants:

Role	Badge Agency	Name	Vacation Start	Vacation End
Alternate Defender	ALTD	Deputy Alternate Defender,		
District Attorney	OCDA	Nguyen-McDonald, Daniel		
Alternate Defender	ALTD	Mikhail, Marian		
District Attorney	OCDA	Gomez, Steven		
District Attorney	OCDA	Voge, James		
District Attorney	OCDA	Ellis, Therese		
Alternate Defender	ALTD	Follett, James		
District Attorney	OCDA	Johnson, Alexis		
District Attorney	OCDA	Zhan, MingMing		

Heard Hearings:

Date	Hearing Type - Reason	Courtroom	Hearing Status	Special Hearing Result
02/07/2023	Motion Dismissal	C47	Heard	
02/07/2023	Motion Dismissal	C48	Heard	
02/08/2023	Motion Dismissal	C48	Heard	Waives arraignment today
02/10/2023	Arraignment -	C48	Heard	
02/24/2023	Arraignment -	C54	Cancel	
03/03/2023	Pre Trial -	C47	Cancel	
03/03/2023	Pre Trial -	C50	Heard	Time not waived
03/10/2023	Pre Trial -	C47	Cancel	
03/10/2023	Pre Trial -	C51	Heard	waives statutory time for
03/16/2023	Jury Trial -	C47	Heard	
03/20/2023	Motion Dismiss [Penal Code 1385]	C47	Cancel	
03/20/2023	Jury Trial -	C47	Heard	
03/20/2023	Motion Dismiss [Penal Code 1385]	C47	Heard	
03/20/2023	Motion Dismiss [Penal Code 1385]	C53	Heard	
03/21/2023	Motion Dismissal	C47	Cancel	
03/21/2023	Jury Trial -	C47	Heard	
03/22/2023	Jury Trial -	C47	Heard	
03/22/2023	Jury Trial -	C53	Heard	waives statutory time for
03/23/2023	Jury Trial -	C53	Heard	waives statutory time for
03/24/2023	Jury Trial -	C53	Heard	waives statutory time for
03/27/2023	Jury Trial -	C53	Heard	waives statutory time for
03/28/2023	Jury Trial -	C53	Heard	